

April 2, 2002

The Honorable Board of Supervisors  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, CA 90012

Dear Supervisors:

**CRIME INSURANCE AND PUBLIC OFFICIAL'S BOND  
(ALL DISTRICTS AFFECTED) (3-VOTES)**

**IT IS RECOMMENDED THAT YOUR BOARD:**

1. Authorize the purchase of commercial crime coverage through Hooper, Hayes & Associates, Inc. (Hooper Hayes) at an initial annual premium cost of \$212,815 including broker commission, subject to anniversary renewal adjustments and changes in County operations for a three-year term period of April 22, 2002 to April 21, 2005.
2. Authorize the purchase of a public official's bond through Near North Insurance Brokerage (Near North) at a three-year prepaid cost of \$5,000 including broker commission for the period of April 22, 2002 to April 21, 2005.
3. Approve and instruct the Chairman to execute the attached three-year Broker Services Agreements, which County Counsel has approved as to form, with Hooper Hayes and Near North for the crime coverage and public official's bond, respectively (Attachments 1 and 2).
4. Instruct the Auditor-Controller to pay insurance premiums, adjustments, deductible amounts, and related loss expenditures as invoiced and validated by the Chief Administrative Officer.

## **PURPOSE OF RECOMMENDED ACTION**

On April 6, 1999, the Board approved the purchase of commercial crime coverage to provide protection against the possibility of loss which could arise from the County's increasingly complex cash and automated financial systems. The Board also approved the purchase of a public official's bond to satisfy Government Code statutes requiring certain public officials to post a faithful performance surety bond as a prerequisite to assuming duties of office. The crime coverage and the public official's bond will expire on April 22, 2002, and we are recommending these coverages be renewed through the insurance brokerage firms of Hooper Hayes and Near North, respectively.

## **JUSTIFICATION**

In administering government functions, County employees engage in diverse activities involving the handling of money, securities, negotiable instruments, or other properties. Activities such as preparation and issuance of County warrants, processing of tax payments and refunds, collection of license, permit and admission fees, and safekeeping of trust accounts and other property held in trust expose the County to potential loss due to criminal acts. The cost of commercial coverage is modest in comparison to the potential severity of financial loss.

## **FISCAL IMPACT**

The first year crime coverage premium is \$212,815 which is approximately \$30,000 less than the next proposed quote. The program will provide coverage limits of \$10 million per loss due to employee dishonesty, forgery and alteration, theft, disappearance and destruction, robbery and safe burglary, counterfeit currency and money orders, computer fraud and faithful performance of duty. This coverage is subject to a deductible of \$1 million per loss. This coverage and deductible limits are similar to the expiring policy.

The new three-year cost of the public official's bond is \$5,000 in comparison to the expiring three-year bond cost of \$7,676. Limits are set at \$50,000 per position, with the exception of the Treasurer and Tax Collector position, which has total limits of \$300,000 for Treasurer, and \$50,000 each for the Tax Collector, License Collector and Public Administrator positions.

The crime policy will also apply as excess coverage (above the limit of the public official's bond) for any dishonesty losses due to County officials whose positions are included in the public official's bond.

### **FINANCING**

Funding is included in the 2001-02 Insurance Budget and costs will be charged back to department budget units.

### **FACTS AND PROVISIONS/LEGAL REQUIREMENTS**

The Government Code requires certain public officials to post a faithful performance surety bond as a prerequisite to assuming duties of office. Self-insurance is permitted, however, the County has purchased commercial coverage at a nominal cost to provide independent risk evaluation and indemnification, thus avoiding potential conflicts of interest between the County and its officials.

Maintenance of crime coverage protects the County in the event of a significant financial loss. It also satisfies a State of California requirement that the County provide evidence of commercial crime insurance covering each Department of Health Services, Community Health Plan officer, director, trustee, partner and employee.

### **CONTRACTING PROCESS**

To renew this program, a Request for Proposals (RFP) was issued in November 2001 to 42 insurance brokers, including two firms that have met the Los Angeles County Community Business Enterprise (LAC/CBE) criteria and one firm that report they are self-certified. The RFP was also posted on the County Office of Small Business Web Site and advertised in the Los Angeles Times, La Opinión, Los Angeles Sentinel and Acton/Agua Dulce News publications.

Four proposals were received, and an evaluation committee selected the proposals submitted by Hooper Hayes and Near North as the most responsive to the County's requirements at the lowest cost. Attachments 3 and 4 consist of the CBE statements for Hooper Hayes and Near North. Program coverages, terms and conditions have also been reviewed by an independent risk management consulting firm, which concurs with the evaluation committee in the selection of these brokerage firms.

Honorable Board of Supervisors  
April 2, 2002  
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**IMPACT ON CURRENT SERVICES (OR PROJECTS)**

Procurement of these commercial insurance protect the County's financial assets against potentially severe losses at an economical cost.

Respectfully submitted,

DAVID E. JANSSEN  
Chief Administrative Officer

DEJ:SNY  
DU:DS:lis

Attachments (4)

c: County Counsel  
Auditor-Controller  
Treasurer and Tax Collector

**COUNTY OF LOS ANGELES  
Crime Insurance Program  
Broker Services Agreement**

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Exhibit A      Request for Proposal (Not Attached)

Exhibit B      Proposal and Final Quote of Hooper, Hayes & Associates  
(Not Attached)

Exhibit C      Contractor/Employee Acknowledgment and Confidentiality Agreement

**COUNTY OF LOS ANGELES  
Crime Insurance Program  
Broker Services Agreement**

This Contract is made and entered into this twenty-second day of April, Two Thousand and Two, BY AND BETWEEN COUNTY OF LOS ANGELES, a body corporate and politic, referred to as "County" and Hooper, Hayes & Associates, Inc., referred to as "CONTRACTOR," doing business at 11661 San Vicente Blvd., Suite 800, Los Angeles, CA 90049.

**1.0        APPLICABLE DOCUMENTS**

This Contract and the Exhibits listed below form the entire agreement between the parties. Any conflict in the terms of the agreement shall be resolved by giving preference first to the provisions of the Contract, then the Request for Proposal, and then the Proposal submitted by Contractor on January 11, 2002 and Final Quote for Crime Insurance Program submitted February 21, 2002.

**EXHIBITS**

- A . . . . . Request for Proposal (RFP) for renewal of the Crime, Public Officials and Fiduciary Liability Insurance Program released November 28, 2001 (Incorporated, but not attached).
- B . . . . . Proposal of Contractor dated January 11, 2002 and Final Quote for Crime Insurance Program submitted February 21, 2002. (Incorporated, but not attached).

**2.0        DEFINITIONS**

- 2.1    Broker of Record: The brokerage firm selected through a competitive request for proposal process to place coverage and administer a County insurance program for a designated period, also referred to as Contractor herein.
- 2.2    Commission: A percentage of the amount of the insurance premium to be paid to the Contractor as full compensation for the placement and ongoing administration of a County insurance program.
- 2.3    Insurance Premium: The amount due in one sum or periodically for an insurance policy including any taxes and fees.
- 2.4    Policy Period: The period that the policy is in effect. Generally, the policy period is for a 12-month period (July 1 through June 30).

### 3.0 **TERM**

3.1 The term of this Agreement shall commence on April 22, 2002 and shall continue in full force and effect until April 30, 2005.

3.2 In the event of expiration or prior termination of the term of this Agreement, the contractor shall fully cooperate with County to provide for the transition to whatever service replacement method the County determines to be in its best interest.

### 4.0 **OPTION TO EXTEND**

The County shall have the option to extend this Contract on a month to month basis but will not exceed twelve months. County Program Manager shall give one hundred and eighty (180) days prior written notice to Contractor of County's intention to exercise said option.

Notwithstanding the giving of such notice, any option to extend this Contract shall be subject to approval by both County and Contractor and shall be executed by the Board of Supervisors and shall include the terms and conditions set forth herein.

### 5.0 **COMPENSATION**

Contractor shall be compensated for all its services based on the commission(s) agreed to by the insurers. All invoices submitted to the County Program Manager for payment of insurance premium must separately list the premium, all applicable taxes and fees and contractors' commission. Any additional taxes and fees that are not included in the invoice(s) remain the responsibility of the contractor.

Contractor shall provide any supporting documents required by the County Program Manager to approve the invoice and issue payment within 30 days of receipt of invoice or supporting documents. Contractor's commission shall not exceed 10% of the annual policy premium and any commission in excess of this percentage amount will be rebated to the County by the Contractor.

### 6.0 **COUNTY'S PROGRAM MANAGER**

The County's Program Manager for this Contract shall be the Chief Administrative Officer (CAO). All work performed by contractor under this Contract shall be subject to approval by the County's Program Manager or his designee(s), who shall be responsible for ongoing evaluation of Contractor's performance and have full authority to direct the Contractor in areas relating to procedural requirements and other matters within the purview of this Agreement.

### 7.0 **CONTRACTOR'S PROGRAM MANAGER**



Contractor's Program Manager shall be:

Ms. Kathy Quintana  
Sr. Vice President & Chief Operating Officer  
Hooper, Hayes & Associates, Inc.  
11661 San Vicente Blvd., Suite 800  
Los Angeles, CA 90049

This manager shall be a full-time employee of Contractor, and any replacement of this manager shall be subject to written approval by the County's Program Manager. She shall have overall responsibility for the performance of Contractor's activities under this Agreement and shall be authorized to act for and bind the Contractor in all matters relating to the administrative aspects of this Agreement.

## **8.0 CONTRACTOR PERSONNEL**

The Contractor shall provide qualified personnel to perform work and provide deliverables as indicated in the RFP and Contractor's Proposal dated January 11, 2001. The Contractor will ensure that its staff possesses the required professional licenses and certificates, if any, required by State of California, and a sufficient number of competent personnel to adequately perform Contractor's Services, as described in Section 9.0 herein, on a timely basis. The County may assess liquidated damages against the Contractor as specified in Section 23.0 of this Agreement.

The County reserves the right to require replacement of the Contractor's personnel. The Contractor also shall provide County with two weeks notice (10 business days) of any proposed changes in the Contractor's assigned personnel. In each instance, the Contractor shall provide the County Program Manager or his designee with a resume of the proposed replacement and an opportunity to interview the person prior to assigning a person to the project.

## **9.0 CONTRACTOR SERVICES**

Contractor shall provide the services required by the County including but not limited to the following:

### **9.1 Placement of Coverages**

- 9.1.1 Design, market, obtain quotations, evaluate insurers' financial status and place required insurance coverage with financially secure companies.
- 9.1.2 Structure insurance programs to eliminate gaps or overlaps in policies and in accordance with the program structure approved

by the County.

- 9.1.3 Provide the coverages and limits as required in Section VIII of the RFP issued on November 28, 2001 or as approved by the County and any enhancement(s) that will benefit the County without limiting or reducing the required coverages at little or no cost.

## 9.2 Administration of Policy(ies)

- 9.2.1 Comprehensive review of all insurance binders, policies, endorsements, certificates and other documents to ensure they are complete and accurate and to advise of and correct any deficiency or noncompliance. Contractor shall evidence this comprehensive review by affixing the signature of an officer of their company to each page of the coverage documents.
- 9.2.2 Monitor insurer's financial status, advise immediately of any downgrading of insurer's financial status, evaluate impact to the County and the actions to be taken to protect the County's interest.
- 9.2.3 Provide early warning of rate and coverage changes and probable impact on County's program.
- 9.2.4 Service each policy issued under this program to the County. This includes, but is not limited to, processing any changes to the policy, verifying the accuracy of invoices and promptly issuing premium payment(s) to the appropriate underwriters upon receiving funding from the County.
- 9.2.5 Process in a timely manner and be responsible for any funds to or from the County (except contractor fees) that are entrusted to the Contractor until the entrusted funds are disbursed and received by the designated payee. This responsibility shall continue beyond this agreement's expiration date until all the entrusted funds are received by the payees.
- 9.2.6 Recommend methods or procedures that would more efficiently expedite the flow of information and documents.
- 9.2.7 Provide a variety of periodic reports as required by the County to enable analysis of coverages, compliance with insurance requirements and monitoring of claims and coverage limits. The reports shall include but not be limited to updating of insured values, listing of claims, allocation of premiums, listing of certificates issued, update and listing of insured facilities, etc.
- 9.2.8 Provide a stewardship report that chronicles the broker's activities

during the policy year and projects or recommends activities for the remaining and coming policy year. The report should be provided as required by the County's Program Manager or his designee.

### 9.3 Claims Services

- 9.3.1 Assist the County in management of claims to their conclusion for no additional fee by providing the full range of claims services.
- 9.3.2 Review of the adequacy and timeliness of all loss runs and reports and to make changes as needed.
- 9.3.3 Provide expert assistance on coverage and policy interpretation relative to the claim.
- 9.3.4 Assist the County in resolving all outstanding claim disputes and in obtaining timely payments on all claim payments.
- 9.3.5 Attend meetings regarding the program's claims process or relating to any claim or loss submitted under this insurance program.

### 9.4 Other Services

- 9.4.1 Provide advice on other coverages and other commercial insurance programs/subjects if requested by the County.
- 9.4.2 Provide, with the concurrence or at the request of the County's Program Manager, seminars and training sessions for the benefit of County personnel relating to commercial insurance programs.

## 10.0 **CONTRACTOR AVAILABILITY**

- 10.1 Contractor claims staff shall be accessible twenty-four hours a day, seven days a week to the County Program Manager and/or other County staff for emergency consultation and immediate reporting of losses.
- 10.2 Contractor shall maintain normal office hours from 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding County holidays.

## 11.0 **CONTRACTOR'S FINANCIAL STATEMENT**

- 11.1 Contractor shall submit its most current financial statements (preferably audited) or a performance bond no later than 90 days prior to the annual insurance policy renewal or placement of a new policy. The Contractor will also provide any additional information required by the Auditor-Controller to confirm

that the Contractor has the financial capability of maintaining the services necessary for the efficient administration of this insurance program.

11.2 The County will assess the financial statements of the Contractor and assign one of the following ratings as to its financial status: Excellent-Good, Fair or Poor. Based on this assessment, the following actions will be taken:

- An Excellent-Good rating - Contractor shall continue to provide a full range of services, including handling of premium and settlement payments.
- A Fair rating - Contractor will continue to provide the required services except all premium payments due from the County will be directly processed by the County to the insurer(s) or the Contractor will provide a bond guaranteeing the fiduciary responsibility to the County as required by the County's Program Manager. If the County elects to process the premium payment(s), Contractor will reimburse the County for its total cost as determined by the County including any administrative and accounting cost to arrange, issue, and reissue (if required) each check. At the sole discretion of the County, it may charge a maximum flat fee of \$250 for each check it issues which would include any re-issuance cost. The County may deduct this cost from any commission owed the Contractor.
- A Poor rating - Contractor will fully cooperate with County in transferring this insurance program to the brokerage firm designated by the County. In addition to Section 23 of this contract, Termination for Default of Contractor, Contractor will return to the County any unearned commission, as determined by County, within 30 days of receiving notice of a Poor rating.

## **12.0 CHANGES AND AMENDMENTS**

The County reserves the right to change any portion of this Agreement. All changes shall be accomplished as follows:

12.1 For any changes which affect the scope of work, term, compensation, or any provision included in this Agreement, a negotiated Amendment to this Agreement shall be prepared and executed by the Board of Supervisors and the Contractor.

12.2 For any change which does not affect the scope of work, term, compensation, or any provision included in this Agreement, a Change Notice shall be prepared and signed by the County's Program Manager and the Contractor's Program Manager.

## **13.0 TERMINATION FOR CONVENIENCE OF THE COUNTY**

- 13.1 Performance of services under this Agreement may be terminated by the County in whole or in part when such action is deemed by the County to be in its best interest. Termination of work shall be effected by delivery to the Contractor of a ten (10) day prior written Notice of Termination specifying the extent to which the performance work is terminated and the date upon which such termination becomes effective. Said Notice of Termination shall be given by the County Program Manager.
- 13.2 After receipt of the Notice of Termination and except as otherwise directed by the County, the Contractor shall:
- 13.2.1 Stop services under this Agreement on the date and to the extent specified in the Notice of Termination.
  - 13.2.2 Complete performance of such part of the work as shall not have been terminated by the Notice of Termination.
  - 13.2.3 Submit to the County, in the form and with the certifications as may be prescribed by the County, a termination claim and invoice. Such claim and invoice shall be submitted promptly, but not later than three (3) months from the effective date of termination. Upon failure of the Contractor to submit a termination claim and invoice within the time allowed, the County may determine on the basis of information available to the County, the amount, if any, due to the Contractor in respect to the termination, and such determination shall be final. After such determination is made, the County shall pay the Contractor the amount so determined.
  - 13.2.4 In the event it is determined by the County that the Contractor has been overcompensated, the County shall notify the Contractor of the overcompensation, and the Contractor must provide a written response within 30 days of the receipt of such notice, including any refund that may be due the County.
- 13.3 Subject to the provisions of the paragraph immediately above, the County and the Contractor shall negotiate an equitable amount to be paid to the Contractor by reason of the total or partial termination of work pursuant to this clause. A said amount may include a reasonable allowance for profit on work done but shall not include an allowance for profit on work terminated. The County shall pay the agreed amount; subject to other limitations and provided that such amount shall not exceed the total funding obligated under this Agreement as reduced by the amount of payments otherwise made and as further reduced by the contract price of work not terminated.

#### 14.0 **RECORD RETENTION AND INSPECTION**

Upon receipt of a written request, the Contractor shall at no cost to the County, make available to the County and all authorized representatives for examination, audit, excerpt, copy or transcription any pertinent transaction, activity, time card or other record relating to this Agreement. Failure on the part of the Contractor to comply with the provisions of this paragraph shall constitute a material breach of this Agreement upon which the County may terminate or suspend this Agreement.

Such material including books, records, documents, case files and all pertinent cost accounting, financial records, and proprietary data must be kept and maintained for a period of five (5) years after completion of the Agreement, or until such time as all audits are completed, whichever is earlier.

Upon expiration or cancellation of this Agreement, all documents, reports, records, case files, correspondence, and work product relating to the Contractor's operations under this Agreement shall be returned to the County or to such location as the County Program Manager may direct. It is understood that all of the materials described above are the properties of the County and not of the Contractor herein.

In the event that records are located outside of a 100-mile radius of the Los Angeles Civic Center area of the County of Los Angeles, the Contractor shall reimburse the County for County's travel and per diem costs in connection with an inspection or audit.

In the event that an audit specifically regarding this Agreement is conducted by any Federal or State auditor, or any auditor or accountant employed by the Contractor or otherwise, the Contractor shall file a copy of each such audit report with the County's Program Manager within thirty (30) days after the Contractor's receipt thereof.

#### **15.0 ADJUSTMENT TO PAYMENTS FOLLOWING AUDIT**

If, at any time during the term of this Agreement or five (5) years after the expiration or termination of this Agreement, authorized representatives of the County conduct an audit of the Contractor regarding the services provided to the County hereunder, and if as a result of such audit it is determined that the County's dollar liability for such service is less than payments made by the County to the Contractor, then the Contractor agrees that the difference, at the County's option, shall be either: 1) repaid forthwith by the Contractor to the County by cash payment, or 2) credited against any future payments due hereunder to the Contractor. If, as a result of such audit, it is determined that the County's dollar liability for services provided hereunder is more than payments made by the County to the consultant, then the difference shall be paid to the Contractor by the County provided that in no event shall the County's maximum obligation exceed the amount appropriated by the Board of Supervisors.

#### **16.0 LIMITATION OF THE COUNTY'S OBLIGATION DUE TO NON-APPROPRIATION**

The County's obligation is payable only and solely from funds appropriated for the purpose of this Agreement. All funds for payments after June 30 of the current fiscal year are subject to the County's legislative appropriation for this purpose. Payments during subsequent fiscal periods are dependent upon the same action. In the event this Agreement extends into succeeding fiscal year periods, and, if the Board of Supervisors does not allocate sufficient funds for the next succeeding fiscal year's payments, then the affected equipment and/or services shall be terminated as of June 30 of the then current fiscal year. The County shall notify the Contractor in writing of such non-allocation at the earliest possible date.

#### **17.0 INDEPENDENT CONTRACTOR STATUS**

This Agreement between the County and the Contractor is not intended and shall not be construed to create a relationship of agent, servant, employee, joint venture, or association as between the County and the Contractor. The Contractor understands and agrees that all persons furnishing services to the County pursuant to this Agreement are, for purposes of Workers' Compensation liability, employees solely of the Contractor and not employees of the County. The Contractor shall bear the sole responsibility and liability for furnishing Workers' Compensation benefits to any person for injuries arising from or connected with services performed on behalf of the Contractor pursuant to this Agreement.

#### **18.0 INDEMNIFICATION**

Contractor shall indemnify, defend and hold harmless County, and its Special Districts, elected and appointed officers, employees, and agents from and against any and all liability, including but not limited to demands, claims, actions, fees, costs, and expenses (including attorney and expert witness fees), arising from or connected with Contractor's acts and/or omissions arising from and/or relating to this Agreement.

#### **19.0 INSURANCE**

Without limiting Contractor's indemnification of County and during the term of this Agreement, Contractor shall provide and maintain, and shall require all of its subcontractors to maintain, the following programs of insurance specified in this Agreement. Such insurance shall be primary to and not contributing with any other insurance or self-insurance programs maintained by County, and such coverage shall be provided and maintained at Contractor's own expense.

**19.1 Evidence of Insurance:** Certificate(s) or other evidence of coverage satisfactory to County shall be delivered to CAO-Risk Management

Operations prior to commencing services under this Agreement. Such certificates or other evidence shall:

- (1) Specifically identify this Agreement.
- (2) Clearly evidence all coverages required in this Agreement.
- (3) Contain the express condition that County is to be given written notice by mail at least thirty (30) days in advance of cancellation for all policies evidenced on the certificate of insurance.
- (4) Include copies of the additional insured endorsement to the commercial general liability policy, adding the County of Los Angeles, its Special Districts, its officials, officers and employees as insureds for all activities arising from this Agreement.
- (5) Identify any deductibles or self-insured retention for County's approval. The County retains the right to require Contractor to reduce or eliminate such deductibles or self-insured retention as they apply to County, or, require Contractor to provide a bond guaranteeing payment of all such retained losses and related costs, including, but not limited to, expenses or fees, or both, related to investigations, claims administrations, and legal defense. Such bond shall be executed by a corporate surety licensed to transact business in the State of California.

**19.2 Insurer Financial Ratings:** Insurance is to be provided by an insurance company acceptable to the County with an A.M. Best rating of not less than A:VII, unless otherwise approved by County.

**19.3 Failure to Maintain Coverage:** Failure by Contractor to maintain the required insurance, or to provide evidence of insurance coverage acceptable to County, shall constitute a material breach of the contract upon which County may immediately terminate or suspend this Agreement. County, at its sole option, may obtain damages from Contractor resulting from said breach. Alternatively, County may purchase such required insurance coverage, and without further notice to Contractor, County may deduct from sums due to Contractor any premium costs advanced by County for such insurance.

**19.4 Notification of Incidents, Claims or Suits:** Contractor shall report to County:

- (1) any accident or incident relating to services performed under this Agreement which involves injury or property damage which may result in the filing of a claim or lawsuit against Contractor and/or County. Such report shall be made in writing within 24 hours of occurrence.
- (2) any third party claim or lawsuit filed against Contractor arising from or related to services performed by Contractor under this Agreement.
- (3) any injury to a contractor employee which occurs on County property. This report shall be submitted on a County "Non-employee Injury Report" to the County's program manager.



- (4) any loss, disappearance, destruction, misuse, or theft of any kind whatsoever of County property, monies or securities entrusted to Contractor under the terms of this Agreement.

**19.5 Compensation for County Costs:** In the event that Contractor fails to comply with any of the indemnification or insurance requirements of this Agreement, and such failure to comply results in any costs to County, Contractor shall pay full compensation for all costs incurred by County.

**19.6 Insurance Coverage Requirements for Subcontractors:** Contractor shall ensure any and all subcontractors performing services under this Agreement meet the insurance requirements of this Agreement by either:

- (1) Contractor providing evidence of insurance covering the activities of subcontractors, or
- (2) Contractor providing evidence submitted by subcontractors evidencing that subcontractors maintain the required insurance coverage. County retains the right to obtain copies of evidence of subcontractor insurance coverage at any time.

**19.7 Insurance Coverage Requirements:**

- (1) **General Liability:** insurance (written on ISO policy form CG 00 01 or its equivalent) with limits of not less than the following:

General Aggregate:	\$2 million
Products/Completed Operations Aggregate:	\$1 million
Personal and Advertising Injury:	\$1 million
Each Occurrence:	\$1 million

- (2) **Automobile Liability:** Insurance (written on ISO policy form CA 00 01 or its equivalent) with a limit of liability of not less than \$1 million for each accident. Such insurance shall include coverage for all "owned," "hired" and "non-owned" vehicles, or coverage for "any auto."
- (3) **Workers Compensation and Employers' Liability:** Insurance providing worker's compensation benefits, as required by the Labor Code of the State of California or by any other state, and for which Contractor is responsible. If Contractor's employees will be engaged in maritime employment, coverage shall provide workers compensation benefits as required by the U.S. Longshore and Harbor Workers' Compensation Act, Jones Act or any other federal law for which Contractor is responsible.

In all cases, the above insurance also shall include Employers' Liability coverage with limits of not less than the following:

Each Accident:	\$1 million
Disease - policy limit:	\$1 million
Disease - each employee:	\$1 million

- (4) **Errors & Omissions Liability:** Insurance covering liability arising from any error, omission, negligent or wrongful act of the Contractor, its officers or employees with limits of not less than \$1 million per claim and shall be hereunder endorsed as follows:

“Insurance afforded by this policy shall apply also to the liability assumed by the insured under the contract with the County of Los Angeles for broker services, provided such liability results from an error, omission, or negligent act of the insured, its officers, employees, agents, or subcontractors. All other provisions of this policy remain unchanged.”

- (5) **Crime Coverage:** Insurance with limits in amounts not less than indicated below covering against loss of money, securities, or other property referred to in this Agreement, and naming the County as loss payee.

Employee Dishonesty:	\$1 million
Forgery or Alteration:	\$1 million
Theft, Disappearance and Destruction:	\$1 million
Computer Fraud:	\$1 million
Burglary and Robbery:	\$1 million

- (6) **Basic Health Insurance and Benefits:** Contractor will provide basic health coverage for employees of the Contractor who perform work under the provisions of this Agreement.

## 20.0 **COVENANT AGAINST CONTINGENT FEES**

The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee excepting bona fide employees or bona fide established commercial or selling agents maintained by Contractor for the purpose of securing business. For breach or violation of this warranty, the County shall have the right to terminate this Agreement and, in its sole discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.

## 21.0 **GOVERNING LAWS**

This Agreement shall be construed in accordance with and governed by the laws of the State of California.

## **22.0 COMPLIANCE WITH LAWS**

22.1 The Contractor agrees to comply with all applicable Federal, State and local laws, rules, regulations and ordinances, and all provisions required thereby to be included herein, are hereby incorporated by this reference.

22.2 The Contractor shall indemnify, defend and hold harmless the County from any loss, damage or liability resulting from a violation on the part of the Contractor of such laws, rules, regulations and ordinances.

## **23.0 LIQUIDATED DAMAGES**

If Contractor fails to provide the cost and coverages as proposed, Contractor agrees to pay the County all costs, as determined by the County, to remedy the coverage to the satisfaction of the County's Program Manager and may be assessed up to 20% of the annual commission as determined by the County's Program Manager.

If Contractor fails to perform agreed services or perform such services within the time specified in accordance with the terms of this Contract, County shall reduce Contractor's billing or bill Contract by an amount to be determined by the County Program Manager but not to exceed 20% of the annual commission for each noted deficiency.

As provided under this Agreement, County's Program Manager shall serve written notice upon Contractor of any deficiency noted. Contractor shall have up to ten (10) calendar days after receipt of deficiency notice to remedy the deficiency before liquidated damages are assessed.

## **24.0 TERMINATION FOR DEFAULT OF CONTRACTOR**

24.1 The County may, subject to the provisions outlined below, by written notice of default to the Contractor, terminate immediately the whole or any part of this Agreement if the Contractor fails to perform any provision of this Agreement, or so fails to make progress as to endanger performance of this Agreement in accordance with its terms, and in either of these two circumstances does not remedy such failure within a period of ten (10) calendar days (or such longer period as the County may authorize in writing) after receipt of notice from the County specifying such failure.

24.2 In the event the Contract is terminated for default, then the Contractor agrees to pay the County all costs incurred by the County, as

determined by the County, for replacing the Contractor's services. In addition to the foregoing, damages arising from the Contractor's failure to perform will apply in all cases except where failure to perform arises out of causes beyond the control and without fault or negligence of the Contractor.

- 24.3 If, after notice of termination of this Agreement, it is determined for any reason that the Contractor was not in default under the provisions of this clause or that the default was excusable, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to the clause entitled "Termination for Convenience of the County."

## **25.0 DELEGATION AND ASSIGNMENT**

The Contractor shall not delegate its duties nor assign its rights hereunder, either in whole or in part, without the prior written consent of the County.

- 25.1 Any delegation of duties shall be in the form of a subcontract. The Contractor's request to the County, for approval to enter into a subcontract shall include:
- 25.1.1 A description of the services to be provided by a proposed subcontractor.
  - 25.1.2 Identification of the proposed subcontractor and an explanation of why and how the proposed subcontractor was selected.
  - 25.1.3 The proposed subcontract amount, together with the Contractor's cost or price analysis thereof.
  - 25.1.4 A copy of the proposed subcontract. Any later modification or amendment of such subcontract shall be approved in writing by the County before such modification or amendment is effective.
- 25.2 Subcontracts shall be made in the name of the Contractor and shall not bind nor purport to bind the County. The making of subcontracts hereunder shall not relieve the Contractor of any requirement under this Agreement, including, but not limited to, the duty to properly supervise and coordinate the work of subcontractors. Approval of the provisions of any subcontract by the County shall not be construed to constitute a determination of the allowableness of any cost under this Agreement. In no event, shall approval of any subcontract by the County be construed as effecting any increase in the amount contained in the maximum obligation of the County.

## **26.0 TERMINATION FOR IMPROPER CONSIDERATION**

The County may, by written notice to the Contractor, immediately terminate the right of the Contractor to proceed under this Agreement if it is found that consideration, in any form, was offered or given by the Contractor, either directly or through an intermediary, to any County officer, employee or agent with the intent of securing the Agreement or securing favorable treatment with respect to the award, amendment or extension of the Agreement or the making of any determinations with respect to the Contractor's performance pursuant to the Agreement. In the event of such termination, the County shall be entitled to pursue the same remedies against the Contractor as it could pursue in the event of default by the Contractor.

The Contractor shall immediately report any attempt by a County officer or employee to solicit such improper consideration. The report shall be made either to the County manager charged with the supervision of the employee or to the County Auditor-Controller's Employee Fraud Hotline at (213) 974-0914 or (800) 544-6861.

Among other items, such improper consideration may take the form of cash, discounts, service, the provision of travel or entertainment, or tangible gifts.

## **27.0 DISCLOSURE OF INFORMATION**

The Contractor shall not disclose any details in connection with this Agreement to any party, except as may be otherwise provided herein or required by law. However, in recognizing the Contractor's need to identify its services and related clients to sustain itself, the County shall not inhibit the Contractor from publicizing its role under this Agreement within the following conditions:

- 27.1 The Contractor shall develop all publicity material in a professional manner.
- 27.2 During the course of performance of this Agreement, the Contractor, its employees, agents, and subcontractors shall not publish or disseminate commercial advertisements, press releases, opinions or feature articles, using the name of the County without the County's prior consent.
- 27.3 The Contractor shall not possess any interest, title, or right to any County case data or records. The Contractor is prohibited from disclosing any identified or unidentified raw County data to any other party, or from combining any identified or unidentified raw County data with that of any other contractor, client or party into any database or

report format for any purpose whatsoever without the expressed, written authorization of the County.

## **28.0 NOTICE OF DELAYS**

Except as otherwise expressly provided herein, when either party has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this Agreement, that party shall, within five (5) working days, give notice thereof, including all relevant information with respect thereto, to the other party.

## **29.0 VALIDITY**

The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision.

## **30.0 WAIVER**

No waiver of a breach of any provision of this Agreement by the County shall constitute a waiver of any other breach of said provision or any other provision of this Agreement. Failure of the County to enforce at any time, or from time to time, any provision of this Agreement, shall not be construed as a waiver thereof.

## **31.0 DEFAULT FOR INSOLVENCY**

31.1 The County may cancel this Agreement for default in the event of the occurrence of any of the following:

- 31.1.1 Insolvency of the Contractor. The Contractor shall be deemed insolvent if it has ceased to pay its debts in the ordinary course of business or cannot pay its debts as they become due, whether it has committed an act of bankruptcy or not, and whether insolvent within the meaning of the Federal Bankruptcy Law or not.
- 31.1.2 The filing of a voluntary petition to bankruptcy.
- 31.1.3 The appointment of a Receiver or Trustee for the Contractor.
- 31.1.4 The execution by the Contractor of an assignment for the benefit of creditors.

31.2 The remedies reserved to the County herein shall be cumulative and additional to any other remedies provided in law or equity.

## **32.0 NOTICES**

- 32.1 Notices required or permitted to be given under the terms of this Agreement or by any law now or hereafter in effect may, at the option of the party giving notice, be given by personal delivery or by enclosing the same in a sealed envelope addressed to the party for whom intended and by depositing such envelope with postage prepaid in the United States Post Office or substation thereof, or any public mail box. Any such notice and the envelope containing same shall be addressed to the Contractor at its place of business as designated at the address set forth in Section 7.0 of this Agreement or such other place as may be hereinafter designated in writing by the Contractor. The notices and envelopes containing same to the County shall be addressed to:

David E. Janssen  
Chief Administrative Officer  
713 Kenneth Hahn Hall of Administration  
500 West Temple Street,  
Los Angeles, California 90012

- 32.2 In the event of suspension or termination of this Agreement, notices may also be given upon personal delivery to any person whose actual knowledge of such suspension or termination would be sufficient notice to the Contractor.

### 33.0 **NON-EXCLUSIVE CONTRACT**

This is a non-exclusive contract. The County reserves the right to contract with any and all successful proposers for the same or similar services.

### 34.0 **NON-DISCRIMINATION IN EMPLOYMENT**

- 34.1 The Contractor certifies and agrees that all persons employed by it, its affiliates, subsidiaries, or holding companies are and will be treated equally by it without regard to or because of race, color, religion, ancestry, national origin, sex, age, condition of physical or mental handicap, marital status, or political affiliation, in compliance with all applicable Federal and State anti-discrimination laws and regulations.
- 34.2 The Contractor shall take affirmative action to ensure that qualified applicants are employed and that employees are treated during employment without regard to race, color, religion, sex, ancestry, national origin, age or condition of physical or mental handicap or marital status, or political affiliation. Such action shall include but is not limited to the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship.

- 34.3 The Contractor shall deal with its subcontractors, bidders, or vendors without regard to or because of race, color, religion, ancestry, national origin, sex, age, condition of physical or mental handicap, marital status, or political affiliation.
- 34.4 The Contractor shall allow the County's representative access to its employment records during regular business hours to verify compliance with the provisions of this section when so requested by the County.
- 34.5 If the County finds that any of the above provisions have been violated, the same shall constitute a material breach of contract upon which the County may cancel, terminate, or suspend this Agreement. While the County reserves the right to determine independently that the anti-discrimination provisions of this Agreement have been violated, in addition, a determination by the California Fair Employment Practices Commission or the Federal Equal Employment Opportunity Commission that the Contractor has violated State or Federal anti-discrimination laws or regulations shall constitute a finding by the County that the Contractor has violated the anti-discrimination provisions of this Agreement.

#### **35.0 NON-DISCRIMINATION IN SERVICES**

The Contractor shall not discriminate in the provision of services hereunder because of race, color, religion, national origin, ancestry, sex or age in accordance with all applicable requirements of Federal and State law.

- 35.1 For the purpose of this section, discrimination in the provision of services may include, but is not limited to, the following: denying any person any service or benefit or the availability of a facility; providing any service or benefit to any person which is different or is provided in a different manner or at a different time from that provided to others; subjecting any person to segregation or separate treatment in any manner related to the receipt of any service; restricting any person in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service; treating any person differently from others in determining admission, enrollment quota, eligibility, membership or any other requirement or condition which persons must meet, in order to be provided any service or benefit.
- 35.2 The Contractor shall take positive steps to ensure that claimants are provided services without regard to race, color, religion, national origin, ancestry, sex, or age.

#### **36.0 ASSURANCE OF COMPLIANCE WITH CIVIL RIGHTS LAWS**



The Contractor hereby assures that it will comply with Subchapter VI of the Civil Rights Act of 1964, 42 U.S.C. Sections 2000e through 2000e (17), to the end that no person shall, on grounds of race, creed, color, sex, national origin, age, condition of mental or physical handicap, marital status, or political affiliation, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Agreement or under any project, program, or activity supported by this Agreement.

#### **37.0 CONFLICT OF INTEREST**

The Contractor represents and warrants that no County employee whose position in the County enables him/her to influence the award of this Agreement, and no spouse or economic dependent of such employee is or shall be employed in any capacity by the Contractor herein or does or shall have any direct or indirect financial interest in this Agreement.

#### **38.0 CONFIDENTIALITY**

The Contractor shall maintain the confidentiality of all its records, including but not limited to billing, County records, case records and patient records, in accordance with all applicable Federal, State and local laws, regulation, ordinances and directives relating to confidentiality. The Contractor shall inform all of its officers, employees, and agents providing services hereunder of the confidentiality provisions of this Agreement. As a condition of employment, all employees of the Contractor must sign and adhere to the "Contractor/Employee Acknowledgment and Confidentiality Agreement" identified as Exhibit "O" in the Request for Proposal for renewal of the Property/Boiler Machinery and LAC/CAL Personal Property Insurance Program released January 31, 2001. The Confidentiality Agreement shall be filed in the Contractor's personnel records for the employee and Contractor shall provide a copy upon request by the County.

#### **39.0 AUTHORIZATION WARRANTY**

The Contractor represents and warrants that the signatory to this Agreement is fully authorized to obligate the Contractor hereunder and that all corporate acts necessary to the execution of this Agreement have been accomplished.

#### **40.0 MERGER**

This Agreement and all documents which are incorporated therein by reference shall constitute the complete and exclusive statement of understanding between the parties which supersedes all previous agreements, written or oral, and all other communications between the parties relating to the subject matter of this Agreement.

#### **41.0 LICENSES, PERMITS, REGISTRATIONS AND CERTIFICATES**

The Contractor shall obtain and maintain in effect during the term of this Agreement, all licenses, permits, registrations and certificates, if any, required by law, which are applicable to the performance of this Agreement, and shall further ensure that all of its officers, employees and agents who perform services hereunder obtain and maintain in effect during the term of this Agreement, all licenses, permits, registrations and certificates required by law which are applicable to their performance of services hereunder.

#### **42.0 CONTRACTOR'S OFFICE**

The Contractor shall notify the County's Program Manager in writing of the Contractor's intent to move and change its business location, at least ten (10) calendar days prior to the effective date.

#### **43.0 UNLAWFUL SOLICITATION**

43.1 The Contractor shall inform all of its employees performing services hereunder of the provisions of Article 9 of Chapter 4 of Division 3 (commencing with section 6150) of the California Business and Professions Code (i.e., State Bar Act provisions regarding unlawful solicitations as a runner or capper for attorneys) and shall take positive and affirmative steps in its performance hereunder to ensure that there is no violation of such provisions by its employees.

43.2 The Contractor shall inform all of its officers, employees, and agents performing services hereunder of the provisions of Labor Code Section 3219. As a condition of employment, all employees of the Contractor must sign and adhere to the attached "Contractor/Employee Acknowledgment and Confidentiality Agreement".

#### **44.0 IMPROPER ACTS OR FAILURE TO ACT**

The Contractor shall reimburse the County for overpayments, fines, penalties, attorneys' fees, interest, medical costs, rehabilitation costs and retroactive or excessive periods of compensation which County paid or is required to pay as a result of Contractor's act(s) and/or omission(s) which violate any provision of this Agreement, the provisions of the Labor Code, or the provisions of the California Code of Regulations (Title 8), or which fail to comply with the general standards of care and generally accepted practices in the workers' compensation claims administration industry.

The Contractor shall not be required to reimburse the County if the Contractor's act(s) and/or omission(s) resulted from following express instructions from an authorized County representative.

#### **45.0 COUNTY LOBBYIST ORDINANCE**

The Contractor and each County lobbyist or County lobbying firm as defined in Los Angeles County Code Section 2.160.010, retained by Contractor, shall fully comply with the County Lobbyist Ordinance, Los Angeles County Code Chapter 2.160. Failure on the part of Contractor or any County lobbyist or County lobbying firm retained by Contractor to fully comply with the County Lobbyist Ordinance shall constitute a material breach of this Agreement upon which County may immediately terminate or suspend this Agreement.

**46.0 COUNTY'S RIGHT TO RENEGOTIATE AGREEMENT**

The County retains the right to renegotiate the terms, conditions and fees during the period of the Agreement if such renegotiation is necessitated by budget shortfalls and reductions.

**47.0 CONSIDERATION OF HIRING COUNTY EMPLOYEES TARGETED FOR LAYOFFS**

Should the Contractor require additional or replacement personnel after the effective date of this Agreement to perform the services set forth herein, the Contractor shall give first consideration for such employment openings to qualified permanent County employees who are targeted for layoff after the effective date of this Agreement.

**48.0 CONSIDERATION OF HIRING PARTICIPANTS OF THE GREATER AVENUES FOR INDEPENDENCE (GAIN) PROGRAM**

Should the Contractor require additional or replacement personnel after the effective date of this Agreement, the Contractor shall give consideration for any such employment openings to participants in the County's Department of Public Social Services' Greater Avenue for Independence (GAIN) Program who meet Contractor's minimum qualifications for the position. The County will refer GAIN participants by job category to the Contractor.

**49.0 COUNTY'S QUALITY ASSURANCE PLAN**

The County or its agent will evaluate Contractor's performance under this Agreement on not less than an annual basis. Such evaluation will include assessing Contractor's compliance with all the terms and performance standards of this Agreement. Contractor deficiencies which County determines are severe or not corrected will be reported to the Board of Supervisors. The report will include improvements/corrective action measures taken by the County and Contractor. If improvement does not occur consistent with the corrective action measures, County may terminate this Agreement or impose other penalties as specified in this Agreement.

**50.0 CONTRACTOR'S WARRANTY OF ADHERENCE TO COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM**

Contractor acknowledges that County has established a goal of ensuring that all individuals who benefit financially from County through contract are in compliance with their court-ordered child, family and spousal support obligations in order to mitigate the economic burden otherwise imposed upon County and its taxpayers.

As required by County's Child Support Compliance Program (County Code Chapter 2.200) and without limiting Contractor's duty under this contract to comply with all applicable provisions of law, Contractor warrants that it is now in compliance and shall during the term of this Agreement maintain compliance with employment and wage reporting requirements as required by the Federal Social Security Act (42 U.S.C. Section 653a) and California Unemployment Insurance code Section 1088.5, and shall implement all lawfully served Wage and Earnings Withholding Orders or District Attorney notices of Wage and Earnings Assignment for Child or Spousal Support, pursuant to Code of Civil Procedure Section 706.031 and Family Code Section 5246(b).

**51.0 TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN COMPLIANCE WITH COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM**

Failure of Contractor to maintain compliance with the requirements set forth in Paragraph 50.0, "Contractor's Warranty of Adherence to County's Child Support Compliance Program", shall constitute a default by contractor under this Agreement. Without limiting the rights and remedies available to County under any other provision of this Agreement, failure to cure such default within 90 days of notice by the Los Angeles County District Attorney shall be grounds upon which the County Board of Supervisors may terminate this agreement pursuant to Paragraphs 24.0 - 24.3, "Termination for Default of Contractor."

**52.0 NOTICE TO EMPLOYEES REGARDING THE FEDERAL EARNED INCOME CREDIT**

Contractor shall notify its employees, and shall require each subcontractor to notify its employees, that they may be eligible for the Federal Earned Income Credit under the federal income tax laws. Such notice shall be provided in accordance with the requirements set forth in Internal Revenue Service Notice 1015.

**53.0 CONTRACTOR RESPONSIBILITY AND DEBARMENT**

53.1 A responsible Contractor is a Contractor who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity and experience to satisfactorily perform the contract. It is the County's policy to conduct business only with responsible contractors.

53.2 The Contractor is notified that, in accordance with Chapter 2.202 of the County Code, if the County acquires information concerning the Contractor's performance on this or other contracts which indicates that

the Contractor is not responsible, the County may, in addition to other remedies provided in the contract, debar the Contractor from bidding on County contracts for a specified period of time not to exceed three years, and terminate any or all existing contracts the Contractor may have with the County.

- 53.3 The County may debar a contractor if the Board of Supervisors finds, in its discretion, that the Contractor has done any of the following: (1) violated any term of a contract with the County, (2) committed any act or omission which negatively reflects on the Contractor's quality, fitness or capacity to perform a contract with the County or any other public entity, or engaged in a pattern or practice which negatively reflects on same, (3) committed an act or offense which indicates a lack of business integrity or business honesty, or (4) made or submitted a false claim against the County or any other public entity.
- 53.4 If there is evidence that the Contractor may be subject to debarment, the Department will notify the Contractor in writing of the evidence which is the basis for the proposed debarment and advise the Contractor of the date for a debarment hearing before the Contractor Hearing Board.
- 53.5 The Contractor Hearing Board will conduct a hearing where evidence on the proposed debarment is presented. The Contractor and/or the Contractor's representative shall be given an opportunity to submit evidence at that hearing. After the hearing, the Contractor Hearing Board shall prepare a proposed decision, which shall contain a recommendation regarding whether the Contractor should be debarred, and, if so, the appropriate length of time of the debarment. If the Contractor fails to avail itself of the opportunity to submit evidence to the Contractor Hearing Board, the Contractor may be deemed to have waived all rights of appeal.
- 53.6 A record of the hearing, the proposed decision and recommendations of the Contractor Hearing Board will be provided to the Board of Supervisors. The Board of Supervisors shall have the right to modify, deny or adopt the proposed decision and recommendation of the Contractor Hearing Board.

These terms shall also apply to subcontractors of County Contractors.

IN WITNESS THEREOF, the Board of Supervisors of the County of Los Angeles has caused this Agreement to be subscribed by its Chairman and the seal of such Board to be hereto affixed, and attested to by the Executive Officer-Clerk thereof, and the Contractor has caused this Agreement to be subscribed to on its behalf by its duly authorized officer, the day, month and the year first above written.

COUNTY OF LOS ANGELES

By\_\_\_\_\_

ATTEST:

VIOLET VARONA-LUKENS, Executive  
Officer-Clerk of the Board of Supervisors  
of the County of Los Angeles

By\_\_\_\_\_

Deputy

Hooper, Hayes & Associates, Inc.  
Contractor

By \_\_\_\_\_

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

APPROVED AS TO FORM:

Lloyd W. Pellman  
County Counsel

By\_\_\_\_\_

Deputy

**COUNTY OF LOS ANGELES  
Public Officials Bond  
Broker Services Agreement**

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Exhibit A      Request for Proposal (Not Attached)

Exhibit B      Proposal of Near North Insurance Brokerage, Inc. (Not Attached)

Exhibit C      Contractor/Employee Acknowledgment and Confidentiality Agreement



**COUNTY OF LOS ANGELES  
Public Officials Bond  
Broker Services Agreement**

This Contract is made and entered into this twenty second day of April, Two Thousand and Two, BY AND BETWEEN COUNTY OF LOS ANGELES, a body corporate and politic, referred to as "County" and Near North Insurance Brokerage, Inc., referred to as "CONTRACTOR," doing business at 1840 Century Park East, Suite 1100, Los Angeles, CA 90067.

**1.0            APPLICABLE DOCUMENTS**

This Contract and the Exhibits listed below form the entire agreement between the parties. Any conflict in the terms of the agreement shall be resolved by giving preference first to the provisions of the Contract, then the Request for Proposal, and then the Proposal submitted by Contractor on January 11, 2002.

**EXHIBITS**

- A . . . . . Request for Proposal (RFP) for renewal of the Crime, Public Officials and Fiduciary Liability Insurance Program released November 28, 2001 (Incorporated, but not attached).
- B . . . . . Proposal of Contractor dated January 11, 2002 (Incorporated, but not attached).

**2.0            DEFINITIONS**

- 2.1            Broker of Record: The brokerage firm selected through a competitive request for proposal process to place coverage and administer a County insurance program for a designated period, also referred to as Contractor herein.
- 2.2            Commission: A percentage of the amount of the insurance premium to be paid to the Contractor as full compensation for the placement and on-going administration of a County insurance program.
- 2.3            Insurance Premium: The amount due in one sum or periodically for an insurance policy including any taxes and fees.
- 2.4            Policy Period: The period that the policy is in effect. Generally, the policy period is for a 12 month period (July 1 through June 30).

### 3.0 **TERM**

3.1 The term of this Agreement shall commence on April 22, 2002 and shall continue in full force and effect until April 30, 2005.

3.2 In the event of expiration or prior termination of the term of this Agreement, the contractor shall fully cooperate with County to provide for the transition to whatever service replacement method the County determines to be in its best interest.

### 4.0 **OPTION TO EXTEND**

The County shall have the option to extend this Contract on a month to month basis but will not exceed twelve months. County Program Manager shall give one hundred and eighty (180) days prior written notice to Contractor of County's intention to exercise said option.

Notwithstanding the giving of such notice, any option to extend this Contract shall be subject to approval by both County and Contractor and shall be executed by the Board of Supervisors and shall include the terms and conditions set forth herein.

### 5.0 **COMPENSATION**

Contractor shall be compensated for all its services based on the commission(s) agreed to by the insurers. All invoices submitted to the County Program Manager for payment of insurance premium must separately list the premium, all applicable taxes and fees and contractor's commission. Any additional taxes and fees that are not included in the invoice(s) remain the responsibility of the contractor.

Contractor shall provide any supporting documents required by the County Program Manager to approve the invoice and issue payment within 30 days of receipt of invoice or supporting documents. Contractor's commission shall not exceed 10% of the policy premium and any commission in excess of this percentage amount will be rebated to the County by the Contractor.

### 6.0 **COUNTY'S PROGRAM MANAGER**

The County's Program Manager for this Contract shall be the Chief Administrative Officer (CAO). All work performed by contractor under this Contract shall be subject to approval by the County's Program Manager or his designee(s), who shall be responsible for on-going evaluation of Contractor's performance and have full authority to direct the Contractor in areas relating to procedural requirements and other matters within the purview of this Agreement.

### 7.0 **CONTRACTOR'S PROGRAM MANAGER**

Contractor's Program Manager shall be:

Ms. Penni Campbell  
Senior Vice President  
Near North Insurance Brokerage, Inc.  
1840 Century Park East, Suite 1100  
Los Angeles, CA 90067

This manager shall be a full-time employee of Contractor, and any replacement of this manager shall be subject to written approval by the County's Program Manager. She shall have overall responsibility for the performance of Contractor's activities under this Agreement and shall be authorized to act for and bind the Contractor in all matters relating to the administrative aspects of this Agreement.

## **8.0 CONTRACTOR PERSONNEL**

The Contractor shall provide qualified personnel to perform work and provide deliverables as indicated in the RFP and Contractor's Proposal dated January 11, 2001. The Contractor will ensure that its staff possesses the required professional licenses and certificates, if any, required by State of California, and a sufficient number of competent personnel to adequately perform Contractor's Services, as described in Section 9.0 herein, on a timely basis. The County may assess liquidated damages against the Contractor as specified in Section 23.0 of this Agreement.

The County reserves the right to require replacement of the Contractor's personnel. The Contractor also shall provide County with two weeks notice (10 business days) of any proposed changes in the Contractor's assigned personnel. In each instance, the Contractor shall provide the County Program Manager or his designee with a resume of the proposed replacement and an opportunity to interview the person prior to assigning a person to the project.

## **9.0 CONTRACTOR SERVICES**

Contractor shall provide the services required by the County including but not limited to the following:

### **9.1 Placement of Coverages**

9.1.1 Design, market, obtain quotations, evaluate insurers' financial status and place required insurance coverage with financially secure companies.

- 9.1.2 Structure insurance programs to eliminate gaps or overlaps in policies and in accordance with the program structure approved by the County.
- 9.1.3 Provide the coverages and limits as required in Section VIII of the RFP issued on November 28, 2001 or as approved by the County and any enhancement(s) that will benefit the County without limiting or reducing the required coverages at little or no cost.

## 9.2 Administration of Policy(ies)

- 9.2.1 Comprehensive review of all insurance binders, policies, endorsements, certificates and other documents to ensure they are complete and accurate and to advise of and correct any deficiency or non-compliance. Contractor shall evidence this comprehensive review by affixing the signature of an officer of their company to each page of the coverage documents.
- 9.2.2 Monitor insurers financial status, advise immediately of any downgrading of insurer's financial status, evaluate impact to the County and the actions to be taken to protect the County's interest.
- 9.2.3 Provide early warning of rate and coverage changes and probable impact on County's program.
- 9.2.4 Service each policy issued under this program to the County. This includes, but is not limited to, processing any changes to the policy, verifying the accuracy of invoices and promptly issuing premium payment(s) to the appropriate underwriters upon receiving funding from the County.
- 9.2.5 Process in a timely manner and be responsible for any funds to or from the County (except contractor fees) that are entrusted to the Contractor until the entrusted funds are disbursed and received by the designated payee. This responsibility shall continue beyond this agreement's expiration date until all the entrusted funds are received by the payees.
- 9.2.6 Recommend methods or procedures that would more efficiently expedite the flow of information and documents.
- 9.2.7 Provide a variety of periodic reports as required by the County to enable analysis of coverages, compliance with insurance requirements and monitoring of claims and coverage limits. The reports shall include but not be limited to updating of insured values, listing of claims, allocation of premiums, listing of certificates issued, update and listing of insured facilities, etc.

- 9.2.8 Provide a stewardship report that chronicles the broker's activities during the policy year and projects or recommends activities for the remaining and coming policy year. The report should be provided as required by the County's Program Manager or his designee.

### 9.3 Claims Services

- 9.3.1 Assist the County in management of claims to their conclusion for no additional fee by providing the full range of claims services.
- 9.3.2 Review of the adequacy and timeliness of all loss runs and reports and to make changes as needed.
- 9.3.3 Provide expert assistance on coverage and policy interpretation relative to the claim.
- 9.3.4 Assist the County in resolving all outstanding claim disputes and in obtaining timely payments on all claim payments.
- 9.3.5 Attend meetings regarding the program's claims process or relating to any claim or loss submitted under this insurance program.

### 9.4 Other Services

- 9.4.1 Provide advice on other coverages and other commercial insurance programs/subjects if requested by the County.
- 9.4.2 Provide, with the concurrence or at the request of the County's Program Manager, seminars and training sessions for the benefit of County personnel relating to commercial insurance programs.

## 10.0 **CONTRACTOR AVAILABILITY**

- 10.1 Contractor claims staff shall be accessible twenty-four hours a day, 7 days a week to the County Program Manager and/or other County staff for emergency consultation and immediate reporting of losses.
- 10.2 Contractor shall maintain normal office hours from 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding County holidays.

## **11.0 CONTRACTOR'S FINANCIAL STATEMENT**

- 11.1 Contractor shall submit its most current financial statements (preferably audited) or a performance bond no later than 90 days prior to the annual insurance policy renewal or placement of a new policy. The Contractor will also provide any additional information required by the Auditor-Controller to confirm that the Contractor has the financial capability of maintaining the services necessary for the efficient administration of this insurance program.
- 11.2 The County will assess the financial statements of the Contractor and assign one of the following ratings as to its financial status: Excellent-Good, Fair or Poor. Based on this assessment, the following actions will be taken:
- An Excellent-Good rating - Contractor shall continue to provide a full range of services, including handling of premium and settlement payments.
  - A Fair rating - Contractor will continue to provide the required services except all premium payments due from the County will be directly processed by the County to the insurer(s) or the Contractor will provide a bond guaranteeing the fiduciary responsibility to the County as required by the County's Program Manager. If the County processes the premium payment(s), Contractor will reimburse the County for its total cost as determined by the County including any administrative and accounting cost to arrange, issue, and reissue (if required) each check. At the sole discretion of the County, it may charge a maximum flat fee of \$250 for each check it issues which would include any re-issuance cost. The County may deduct this cost from any commission owed the Contractor.
  - A Poor rating - Contractor will fully cooperate with County in transferring this insurance program to the brokerage firm designated by the County. In addition to Section 23 of this contract, Termination for Default of Contractor, Contractor will return to the County any unearned commission, as determined by County, within 30 days of receiving notice of a Poor rating.

## **12.0 CHANGES AND AMENDMENTS**

The County reserves the right to change any portion of this Agreement. All changes shall be accomplished as follows:

- 12.1 For any changes which affect the scope of work, term, compensation, or any provision included in this Agreement, a negotiated Amendment to this Agreement shall be prepared and executed by the Board of Supervisors and the Contractor.

- 12.2 For any change which does not affect the scope of work, term, compensation, or any provision included in this Agreement, a Change Notice shall be prepared and signed by the County's Program Manager and the Contractor's Program Manager.

### **13.0 TERMINATION FOR CONVENIENCE OF THE COUNTY**

- 13.1 Performance of services under this Agreement may be terminated by the County in whole or in part when such action is deemed by the County to be in its best interest. Termination of work shall be effected by delivery to the Contractor of a ten (10) day prior written Notice of Termination specifying the extent to which the performance work is terminated and the date upon which such termination becomes effective. Said Notice of Termination shall be given by the County Program Manager.
- 13.2 After receipt of the Notice of Termination and except as otherwise directed by the County, the Contractor shall:
- 13.2.1 Stop services under this Agreement on the date and to the extent specified in the Notice of Termination.
  - 13.2.2 Complete performance of such part of the work as shall not have been terminated by the Notice of Termination.
  - 13.2.3 Submit to the County, in the form and with the certifications as may be prescribed by the County, a termination claim and invoice. Such claim and invoice shall be submitted promptly, but not later than three (3) months from the effective date of termination. Upon failure of the Contractor to submit a termination claim and invoice within the time allowed, the County may determine on the basis of information available to the County, the amount, if any, due to the Contractor in respect to the termination, and such determination shall be final. After such determination is made, the County shall pay the Contractor the amount so determined.
  - 13.2.4 In the event it is determined by the County that the Contractor has been overcompensated, the County shall notify the Contractor of the overcompensation, and the Contractor must provide a written response within 30 days of the receipt of such notice, including any refund that may be due the County.
- 13.3 Subject to the provisions of the paragraph immediately above, the County and the Contractor shall negotiate an equitable amount to be paid to the Contractor by reason of the total or partial termination of work pursuant to this clause. A said amount may include a reasonable allowance for profit on work done but shall not include an allowance for profit on work terminated. The County shall pay the agreed amount; subject to other

limitations and provided that such amount shall not exceed the total funding obligated under this Agreement as reduced by the amount of payments otherwise made and as further reduced by the contract price of work not terminated.

#### **14.0 RECORD RETENTION AND INSPECTION**

Upon receipt of a written request, the Contractor shall at no cost to the County, make available to the County and all authorized representatives for examination, audit, excerpt, copy or transcription any pertinent transaction, activity, time card or other record relating to this Agreement. Failure on the part of the Contractor to comply with the provisions of this paragraph shall constitute a material breach of this Agreement upon which the County may terminate or suspend this Agreement.

Such material including books, records, documents, case files and all pertinent cost accounting, financial records, and proprietary data must be kept and maintained for a period of five (5) years after completion of the Agreement, or until such time as all audits are completed, whichever is earlier.

Upon expiration or cancellation of this Agreement, all documents, reports, records, case files, correspondence, and work product relating to the Contractor's operations under this Agreement shall be returned to the County or to such location as the County Program Manager may direct. It is understood that all of the materials described above are the property of the County and not of the Contractor herein.

In the event that records are located outside of a 100 mile radius of the Los Angeles Civic Center area of the County of Los Angeles, the Contractor shall reimburse the County for County's travel and per diem costs in connection with an inspection or audit.

In the event that an audit specifically regarding this Agreement is conducted by any Federal or State auditor, or any auditor or accountant employed by the Contractor or otherwise, the Contractor shall file a copy of each such audit report with the County's Program Manager within thirty (30) days after the Contractor's receipt thereof.

#### **15.0 ADJUSTMENT TO PAYMENTS FOLLOWING AUDIT**

If, at any time during the term of this Agreement or five (5) years after the expiration or termination of this Agreement, authorized representatives of the County conduct an audit of the Contractor regarding the services provided to the County hereunder, and if as a result of such audit it is determined that the County's dollar liability for such services is less than payments made by the County to the Contractor, then the Contractor agrees that the difference, at the County's option, shall be either: 1) repaid forthwith by the Contractor to the



County by cash payment, or 2) credited against any future payments due hereunder to the Contractor. If, as a result of such audit, it is determined that the County's dollar liability for services provided hereunder is more than payments made by the County to the consultant, then the difference shall be paid to the Contractor by the County provided that in no event shall the County's maximum obligation exceed the amount appropriated by the Board of Supervisors.

#### **16.0 LIMITATION OF THE COUNTY'S OBLIGATION DUE TO NON-APPROPRIATION**

The County's obligation is payable only and solely from funds appropriated for the purpose of this Agreement. All funds for payments after June 30 of the current fiscal year are subject to the County's legislative appropriation for this purpose. Payments during subsequent fiscal periods are dependent upon the same action. In the event this Agreement extends into succeeding fiscal year periods, and, if the Board of Supervisors does not allocate sufficient funds for the next succeeding fiscal year's payments, then the affected equipment and/or services shall be terminated as of June 30 of the then current fiscal year. The County shall notify the Contractor in writing of such non-allocation at the earliest possible date.

#### **17.0 INDEPENDENT CONTRACTOR STATUS**

This Agreement between the County and the Contractor is not intended and shall not be construed to create a relationship of agent, servant, employee, joint venture, or association as between the County and the Contractor. The Contractor understands and agrees that all persons furnishing services to the County pursuant to this Agreement are, for purposes of Workers' Compensation liability, employees solely of the Contractor and not employees of the County. The Contractor shall bear the sole responsibility and liability for furnishing Workers' Compensation benefits to any person for injuries arising from or connected with services performed on behalf of the Contractor pursuant to this Agreement.

#### **18.0 INDEMNIFICATION**

Contractor shall indemnify, defend and hold harmless County, and its Special Districts, elected and appointed officers, employees, and agents from and against any and all liability, including but not limited to demands, claims, actions, fees, costs, and expenses (including attorney and expert witness fees), arising from or connected with Contractor's acts and/or omissions arising from and/or relating to this Agreement.

#### **19.0 INSURANCE**

Without limiting Contractor's indemnification of County and during the term of this Agreement, Contractor shall provide and maintain, and shall require all of its subcontractors to maintain, the following programs of insurance specified in this

Agreement. Such insurance shall be primary to and not contributing with any other insurance or self-insurance programs maintained by County, and such coverage shall be provided and maintained at Contractor's own expense.

**19.1 Evidence of Insurance:** Certificate(s) or other evidence of coverage satisfactory to County shall be delivered to CAO-Risk Management Operations prior to commencing services under this Agreement. Such certificates or other evidence shall:

- (1) Specifically identify this Agreement.
- (2) Clearly evidence all coverages required in this Agreement.
- (3) Contain the express condition that County is to be given written notice by mail at least thirty (30) days in advance of cancellation for all policies evidenced on the certificate of insurance.
- (4) Include copies of the additional insured endorsement to the commercial general liability policy, adding the County of Los Angeles, its Special Districts, its officials, officers and employees as insureds for all activities arising from this Agreement.
- (5) Identify any deductibles or self-insured retention for County's approval. The County retains the right to require Contractor to reduce or eliminate such deductibles or self-insured retention as they apply to County, or, require Contractor to provide a bond guaranteeing payment of all such retained losses and related costs, including, but not limited to, expenses or fees, or both, related to investigations, claims administrations, and legal defense. Such bond shall be executed by a corporate surety licensed to transact business in the State of California.

**19.2 Insurer Financial Ratings:** Insurance is to be provided by an insurance company acceptable to the County with an A.M. Best rating of not less than A:VII, unless otherwise approved by County.

**19.3 Failure to Maintain Coverage:** Failure by Contractor to maintain the required insurance, or to provide evidence of insurance coverage acceptable to County, shall constitute a material breach of the contract upon which County may immediately terminate or suspend this Agreement. County, at its sole option, may obtain damages from Contractor resulting from said breach. Alternatively, County may purchase such required insurance coverage, and without further notice to Contractor, County may deduct from sums due to Contractor any premium costs advanced by County for such insurance.

**19.4 Notification of Incidents, Claims or Suits:** Contractor shall report to County:

- (1) any accident or incident relating to services performed under this Agreement which involves injury or property damage which may result

in the filing of a claim or lawsuit against Contractor and/or County. Such report shall be made in writing within 24 hours of occurrence.

- (2) any third party claim or lawsuit filed against Contractor arising from or related to services performed by Contractor under this Agreement.
- (3) any injury to a contractor employee which occurs on County property. This report shall be submitted on a County "Non-employee Injury Report" to the County's program manager.
- (4) any loss, disappearance, destruction, misuse, or theft of any kind whatsoever of County property, monies or securities entrusted to Contractor under the terms of this Agreement.

**19.5 Compensation for County Costs:** In the event that Contractor fails to comply with any of the indemnification or insurance requirements of this Agreement, and such failure to comply results in any costs to County, Contractor shall pay full compensation for all costs incurred by County.

**19.6 Insurance Coverage Requirements for Subcontractors:** Contractor shall ensure any and all subcontractors performing services under this Agreement meet the insurance requirements of this Agreement by either:

- (1) Contractor providing evidence of insurance covering the activities of subcontractors, or
- (2) Contractor providing evidence submitted by subcontractors evidencing that subcontractors maintain the required insurance coverage. County retains the right to obtain copies of evidence of subcontractor insurance coverage at any time.

**19.7 Insurance Coverage Requirements:**

- (1) **General Liability:** insurance (written on ISO policy form CG 00 01 or its equivalent) with limits of not less than the following:

General Aggregate:	\$2 million
Products/Completed Operations Aggregate:	\$1 million
Personal and Advertising Injury:	\$1 million
Each Occurrence:	\$1 million

- (2) **Automobile Liability:** Insurance (written on ISO policy form CA 00 01 or its equivalent) with a limit of liability of not less than \$1 million for each accident. Such insurance shall include coverage for all "owned", "hired" and "non-owned" vehicles, or coverage for "any auto".
- (3) **Workers Compensation and Employers' Liability:** Insurance providing workers compensation benefits, as required by the Labor Code of the State of California or by any other state, and for which Contractor is responsible. If Contractor's employees will be engaged in maritime employment, coverage shall provide workers

compensation benefits as required by the U.S. Longshore and Harbor Workers' Compensation Act, Jones Act or any other federal law for which Contractor is responsible.

In all cases, the above insurance also shall include Employers' Liability coverage with limits of not less than the following:

Each Accident:	\$1 million
Disease - policy limit:	\$1 million
Disease - each employee:	\$1 million

- (4) **Errors & Omissions Liability:** Insurance covering liability arising from any error, omission, negligent or wrongful act of the Contractor, its officers or employees with limits of not less than \$1 million per claim and shall be hereunder endorsed as follows:

"Insurance afforded by this policy shall apply also to the liability assumed by the insured under the contract with the County of Los Angeles for broker services, provided such liability results from an error, omission, or negligent act of the insured, its officers, employees, agents, or subcontractors. All other provisions of this policy remain unchanged."

- (5) **Crime Coverage:** Insurance with limits in amounts not less than indicated below covering against loss of money, securities, or other property referred to in this Agreement, and naming the County as loss payee.

Employee Dishonesty:	\$1 million
Forgery or Alteration:	\$1 million
Theft, Disappearance and Destruction:	\$1 million
Computer Fraud:	\$1 million
Burglary and Robbery:	\$1 million

- (6) **Basic Health Insurance and Benefits:** Contractor will provide basic health coverage for employees of the Contractor who perform work under the provisions of this Agreement.

## 20.0 **COVENANT AGAINST CONTINGENT FEES**

The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee excepting bona fide employees or bona fide established commercial or selling agents maintained by Contractor for the purpose of securing business. For breach or violation of this warranty, the County shall have the right to terminate this Agreement and, in its sole discretion, to deduct from the

Agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.

#### **21.0 GOVERNING LAWS**

This Agreement shall be construed in accordance with and governed by the laws of the State of California.

#### **22.0 COMPLIANCE WITH LAWS**

22.1 The Contractor agrees to comply with all applicable Federal, State and local laws, rules, regulations and ordinances, and all provisions required thereby to be included herein, are hereby incorporated by this reference.

22.2 The Contractor shall indemnify, defend and hold harmless the County from any loss, damage or liability resulting from a violation on the part of the Contractor of such laws, rules, regulations and ordinances.

#### **23.0 LIQUIDATED DAMAGES**

If Contractor fails to provide the cost and coverages as proposed, Contractor agrees to pay the County all costs, as determined by the County, to remedy the coverage to the satisfaction of the County's Program Manager and may be assessed up to 20% of the annual commission as determined by the County's Program Manager.

If Contractor fails to perform agreed services or perform such services within the time specified in accordance with the terms of this Contract, County shall reduce Contractor's billing or bill Contract by an amount to be determined by the County Program Manager but not to exceed 20% of the annual commission for each noted deficiency.

As provided under this Agreement, County's Program Manager shall serve written notice upon Contractor of any deficiency noted. Contractor shall have up to ten (10) calendar days after receipt of deficiency notice to remedy the deficiency before liquidated damages are assessed.

#### **24.0 TERMINATION FOR DEFAULT OF CONTRACTOR**

24.1 The County may, subject to the provisions outlined below, by written notice of default to the Contractor, terminate immediately the whole or any part of this Agreement if the Contractor fails to perform any provision of this Agreement, or so fails to make progress as to endanger performance of this Agreement in accordance with its terms, and in either of these two circumstances does not remedy such failure within a period of ten (10) calendar days (or such longer period as the

County may authorize in writing) after receipt of notice from the County specifying such failure.

- 24.2 In the event the Contract is terminated for default, then the Contractor agrees to pay the County all costs incurred by the County, as determined by the County, for replacing the Contractor's services. In addition to the foregoing, damages arising from the Contractor's failure to perform will apply in all cases except where failure to perform arises out of causes beyond the control and without fault or negligence of the Contractor.
- 24.3 If, after notice of termination of this Agreement, it is determined for any reason that the Contractor was not in default under the provisions of this clause or that the default was excusable, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to the clause entitled "Termination for Convenience of the County."

## **25.0 DELEGATION AND ASSIGNMENT**

The Contractor shall not delegate its duties nor assign its rights hereunder, either in whole or in part, without the prior written consent of the County.

- 25.1 Any delegation of duties shall be in the form of a subcontract. The Contractor's request to the County, for approval to enter into a subcontract shall include:
- 25.1.1 A description of the services to be provided by a proposed subcontractor.
  - 25.1.2 Identification of the proposed subcontractor and an explanation of why and how the proposed subcontractor was selected.
  - 25.1.3 The proposed subcontract amount, together with the Contractor's cost or price analysis thereof.
  - 25.1.4 A copy of the proposed subcontract. Any later modification or amendment of such subcontract shall be approved in writing by the County before such modification or amendment is effective.
- 25.2 Subcontracts shall be made in the name of the Contractor and shall not bind nor purport to bind the County. The making of subcontracts hereunder shall not relieve the Contractor of any requirement under this Agreement, including, but not limited to, the duty to properly supervise and coordinate the work of subcontractors. Approval of the

provisions of any subcontract by the County shall not be construed to constitute a determination of the allowableness of any cost under this Agreement. In no event, shall approval of any subcontract by the County be construed as effecting any increase in the amount contained in the maximum obligation of the County.

## **26.0 TERMINATION FOR IMPROPER CONSIDERATION**

The County may, by written notice to the Contractor, immediately terminate the right of the Contractor to proceed under this Agreement if it is found that consideration, in any form, was offered or given by the Contractor, either directly or through an intermediary, to any County officer, employee or agent with the intent of securing the Agreement or securing favorable treatment with respect to the award, amendment or extension of the Agreement or the making of any determinations with respect to the Contractor's performance pursuant to the Agreement. In the event of such termination, the County shall be entitled to pursue the same remedies against the Contractor as it could pursue in the event of default by the Contractor.

The Contractor shall immediately report any attempt by a County officer or employee to solicit such improper consideration. The report shall be made either to the County manager charged with the supervision of the employee or to the County Auditor-Controller's Employee Fraud Hotline at (213) 974-0914 or (800) 544-6861.

Among other items, such improper consideration may take the form of cash, discounts, service, the provision of travel or entertainment, or tangible gifts.

## **27.0 DISCLOSURE OF INFORMATION**

The Contractor shall not disclose any details in connection with this Agreement to any party, except as may be otherwise provided herein or required by law. However, in recognizing the Contractor's need to identify its services and related clients to sustain itself, the County shall not inhibit the Contractor from publicizing its role under this Agreement within the following conditions:

- 27.1 The Contractor shall develop all publicity material in a professional manner.
- 27.2 During the course of performance of this Agreement, the Contractor, its employees, agents, and subcontractors shall not publish or disseminate commercial advertisements, press releases, opinions or feature articles, using the name of the County without the County's prior consent.

27.3 The Contractor shall not possess any interest, title, or right to any County case data or records. The Contractor is prohibited from disclosing any identified or unidentified raw County data to any other party, or from combining any identified or unidentified raw County data with that of any other contractor, client or party into any database or report format for any purpose whatsoever without the expressed, written authorization of the County.

## 28.0 **NOTICE OF DELAYS**

Except as otherwise expressly provided herein, when either party has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this Agreement, that party shall, within five (5) working days, give notice thereof, including all relevant information with respect thereto, to the other party.

## 29.0 **VALIDITY**

The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision.

## 30.0 **WAIVER**

No waiver of a breach of any provision of this Agreement by the County shall constitute a waiver of any other breach of said provision or any other provision of this Agreement. Failure of the County to enforce at any time, or from time to time, any provision of this Agreement, shall not be construed as a waiver thereof.

## 31.0 **DEFAULT FOR INSOLVENCY**

31.1 The County may cancel this Agreement for default in the event of the occurrence of any of the following:

- 31.1.1 Insolvency of the Contractor. The Contractor shall be deemed insolvent if it has ceased to pay its debts in the ordinary course of business or cannot pay its debts as they become due, whether it has committed an act of bankruptcy or not, and whether insolvent within the meaning of the Federal Bankruptcy Law or not.
- 31.1.2 The filing of a voluntary petition to bankruptcy.
- 31.1.3 The appointment of a Receiver or Trustee for the Contractor.



31.1.4 The execution by the Contractor of an assignment for the benefit of creditors.

31.2 The remedies reserved to the County herein shall be cumulative and additional to any other remedies provided in law or equity.

## 32.0 **NOTICES**

32.1 Notices required or permitted to be given under the terms of this Agreement or by any law now or hereafter in effect may, at the option of the party giving notice, be given by personal delivery or by enclosing the same in a sealed envelope addressed to the party for whom intended and by depositing such envelope with postage prepaid in the United States Post Office or substation thereof, or any public mail box. Any such notice and the envelope containing same shall be addressed to the Contractor at its place of business as designated at the address set forth in Section 7.0 of this Agreement or such other place as may be hereinafter designated in writing by the Contractor. The notices and envelopes containing same to the County shall be addressed to:

David E. Janssen  
Chief Administrative Officer  
713 Kenneth Hahn Hall of Administration  
500 West Temple Street,  
Los Angeles, California 90012

32.2 In the event of suspension or termination of this Agreement, notices may also be given upon personal delivery to any person whose actual knowledge of such suspension or termination would be sufficient notice to the Contractor.

## 33.0 **NON-EXCLUSIVE CONTRACT**

This is a non-exclusive contract. The County reserves the right to contract with any and all successful proposers for the same or similar services.

## 34.0 **NON-DISCRIMINATION IN EMPLOYMENT**

34.1 The Contractor certifies and agrees that all persons employed by it, its affiliates, subsidiaries, or holding companies are and will be treated equally by it without regard to or because of race, color, religion, ancestry, national origin, sex, age, condition of physical or mental handicap, marital status, or political affiliation, in compliance with all applicable Federal and State anti-discrimination laws and regulations.

34.2 The Contractor shall take affirmative action to ensure that qualified applicants are employed and that employees are treated during

employment without regard to race, color, religion, sex, ancestry, national origin, age or condition of physical or mental handicap or marital status, or political affiliation. Such action shall include but is not limited to the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship.

- 34.3 The Contractor shall deal with its subcontractors, bidders, or vendors without regard to or because of race, color, religion, ancestry, national origin, sex, age, condition of physical or mental handicap, marital status, or political affiliation.
- 34.4 The Contractor shall allow the County's representative access to its employment records during regular business hours to verify compliance with the provisions of this section when so requested by the County.
- 34.5 If the County finds that any of the above provisions have been violated, the same shall constitute a material breach of contract upon which the County may cancel, terminate, or suspend this Agreement. While the County reserves the right to determine independently that the anti-discrimination provisions of this Agreement have been violated, in addition, a determination by the California Fair Employment Practices Commission or the Federal Equal Employment Opportunity Commission that the Contractor has violated State or Federal anti-discrimination laws or regulations shall constitute a finding by the County that the Contractor has violated the anti-discrimination provisions of this Agreement.

### **35.0 NON-DISCRIMINATION IN SERVICES**

The Contractor shall not discriminate in the provision of services hereunder because of race, color, religion, national origin, ancestry, sex or age in accordance with all applicable requirements of Federal and State law.

- 35.1 For the purpose of this section, discrimination in the provision of services may include, but is not limited to, the following: denying any person any service or benefit or the availability of a facility; providing any service or benefit to any person which is different or is provided in a different manner or at a different time from that provided to others; subjecting any person to segregation or separate treatment in any manner related to the receipt of any service; restricting any person in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service; treating any person differently from others in determining admission, enrollment quota, eligibility, membership or any other requirement or condition which persons must meet, in order to be provided any service or benefit.

35.2 The Contractor shall take positive steps to ensure that claimants are provided services without regard to race, color, religion, national origin, ancestry, sex, or age.

**36.0 ASSURANCE OF COMPLIANCE WITH CIVIL RIGHTS LAWS**

The Contractor hereby assures that it will comply with Subchapter VI of the Civil Rights Act of 1964, 42 U.S.C. Sections 2000e through 2000e (17), to the end that no person shall, on grounds of race, creed, color, sex, national origin, age, condition of mental or physical handicap, marital status, or political affiliation, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Agreement or under any project, program, or activity supported by this Agreement.

**37.0 CONFLICT OF INTEREST**

The Contractor represents and warrants that no County employee whose position in the County enables him/her to influence the award of this Agreement, and no spouse or economic dependent of such employee is or shall be employed in any capacity by the Contractor herein or does or shall have any direct or indirect financial interest in this Agreement.

**38.0 CONFIDENTIALITY**

The Contractor shall maintain the confidentiality of all its records, including but not limited to billing, County records, case records and patient records, in accordance with all applicable Federal, State and local laws, regulation, ordinances and directives relating to confidentiality. The Contractor shall inform all of its officers, employees, and agents providing services hereunder of the confidentiality provisions of this Agreement. As a condition of employment, all employees of the Contractor must sign and adhere to the "Contractor/Employee Acknowledgment and Confidentiality Agreement" identified as Exhibit "O" in the Request for Proposal for renewal of the Property/Boiler Machinery and LAC/CAL Personal Property Insurance Program released January 31, 2001. The Confidentiality Agreement shall be filed in the Contractor's personnel records for the employee and Contractor shall provide a copy upon request by the County.

**39.0 AUTHORIZATION WARRANTY**

The Contractor represents and warrants that the signatory to this Agreement is fully authorized to obligate the Contractor hereunder and that all corporate acts necessary to the execution of this Agreement have been accomplished.

#### 40.0 **MERGER**

This Agreement and all documents which are incorporated therein by reference shall constitute the complete and exclusive statement of understanding between the parties which supersedes all previous agreements, written or oral, and all other communications between the parties relating to the subject matter of this Agreement.

#### 41.0 **LICENSES, PERMITS, REGISTRATIONS AND CERTIFICATES**

The Contractor shall obtain and maintain in effect during the term of this Agreement, all licenses, permits, registrations and certificates, if any, required by law, which are applicable to the performance of this Agreement, and shall further ensure that all of its officers, employees and agents who perform services hereunder obtain and maintain in effect during the term of this Agreement, all licenses, permits, registrations and certificates required by law which are applicable to their performance of services hereunder.

#### 42.0 **CONTRACTOR'S OFFICE**

The Contractor shall notify the County's Program Manager in writing of the Contractor's intent to move and change its business location, at least ten (10) calendar days prior to the effective date.

#### 43.0 **UNLAWFUL SOLICITATION**

43.1 The Contractor shall inform all of its employees performing services hereunder of the provisions of Article 9 of Chapter 4 of Division 3 (commencing with section 6150) of the California Business and Professions Code (i.e., State Bar Act provisions regarding unlawful solicitations as a runner or capper for attorneys) and shall take positive and affirmative steps in its performance hereunder to ensure that there is no violation of such provisions by its employees.

43.2 The Contractor shall inform all of its officers, employees, and agents performing services hereunder of the provisions of Labor Code Section 3219. As a condition of employment, all employees of the Contractor must sign and adhere to the attached "Contractor/Employee Acknowledgment and Confidentiality Agreement".

#### 44.0 **IMPROPER ACTS OR FAILURE TO ACT**

The Contractor shall reimburse the County for overpayments, fines, penalties, attorneys' fees, interest, medical costs, rehabilitation costs and retroactive or excessive periods of compensation which County paid or is required to pay as a result of Contractor's act(s) and/or omission(s) which violate any provision

of this Agreement, the provisions of the Labor Code, or the provisions of the California Code of Regulations (Title 8), or which fail to comply with the general standards of care and generally accepted practices in the workers' compensation claims administration industry.

The Contractor shall not be required to reimburse the County if the Contractor's act(s) and/or omission(s) resulted from following express instructions from an authorized County representative.

**45.0 COUNTY LOBBYIST ORDINANCE**

The Contractor and each County lobbyist or County lobbying firm as defined in Los Angeles County Code Section 2.160.010, retained by Contractor, shall fully comply with the County Lobbyist Ordinance, Los Angeles County Code Chapter 2.160. Failure on the part of Contractor or any County lobbyist or County lobbying firm retained by Contractor to fully comply with the County Lobbyist Ordinance shall constitute a material breach of this Agreement upon which County may immediately terminate or suspend this Agreement.

**46.0 COUNTY'S RIGHT TO RENEGOTIATE AGREEMENT**

The County retains the right to renegotiate the terms, conditions and fees during the period of the Agreement if such renegotiation is necessitated by budget shortfalls and reductions.

**47.0 CONSIDERATION OF HIRING COUNTY EMPLOYEES TARGETED FOR LAYOFFS**

Should the Contractor require additional or replacement personnel after the effective date of this Agreement to perform the services set forth herein, the Contractor shall give first consideration for such employment openings to qualified permanent County employees who are targeted for layoff after the effective date of this Agreement.

**48.0 CONSIDERATION OF HIRING PARTICIPANTS OF THE GREATER AVENUES FOR INDEPENDENCE (GAIN) PROGRAM**

Should the Contractor require additional or replacement personnel after the effective date of this Agreement, the Contractor shall give consideration for any such employment openings to participants in the County's Department of Public Social Services' Greater Avenue for Independence (GAIN) Program who meet Contractor's minimum qualifications for the position. The County will refer GAIN participants by job category to the Contractor.

**49.0 COUNTY'S QUALITY ASSURANCE PLAN**

The County or its agent will evaluate Contractor's performance under this Agreement on not less than an annual basis. Such evaluation will include

assessing Contractor's compliance with all the terms and performance standards of this Agreement. Contractor deficiencies which County determines are severe or not corrected will be reported to the Board of Supervisors. The report will include improvements/corrective action measures taken by the County and Contractor. If improvement does not occur consistent with the corrective action measures, County may terminate this Agreement or impose other penalties as specified in this Agreement.

**50.0 CONTRACTOR'S WARRANTY OF ADHERENCE TO COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM**

Contractor acknowledges that County has established a goal of ensuring that all individuals who benefit financially from County through contract are in compliance with their court-ordered child, family and spousal support obligations in order to mitigate the economic burden otherwise imposed upon County and its taxpayers.

As required by County's Child Support Compliance Program (County Code Chapter 2.200) and without limiting Contractor's duty under this contract to comply with all applicable provisions of law, Contractor warrants that it is now in compliance and shall during the term of this Agreement maintain compliance with employment and wage reporting requirements as required by the Federal Social Security Act (42 U.S.C. Section 653a) and California Unemployment Insurance code Section 1088.5, and shall implement all lawfully served Wage and Earnings Withholding Orders or District Attorney notices of Wage and Earnings Assignment for Child or Spousal Support, pursuant to Code of Civil Procedure Section 706.031 and Family Code Section 5246(b).

**51.0 TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN COMPLIANCE WITH COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM**

Failure of Contractor to maintain compliance with the requirements set forth in Paragraph 50.0, "Contractor's Warranty of Adherence to County's Child Support Compliance Program", shall constitute a default by contractor under this Agreement. Without limiting the rights and remedies available to County under any other provision of this Agreement, failure to cure such default within 90 days of notice by the Los Angeles County District Attorney shall be grounds upon which the County Board of Supervisors may terminate this agreement pursuant to Paragraphs 24.0 - 24.3, "Termination for Default of Contractor."

**52.0 NOTICE TO EMPLOYEES REGARDING THE FEDERAL EARNED INCOME CREDIT**

Contractor shall notify its employees, and shall require each subcontractor to notify its employees, that they may be eligible for the Federal Earned Income Credit under the federal income tax laws. Such notice shall be provided in accordance with the requirements set forth in Internal Revenue Service Notice 1015.

### 53.0 **CONTRACTOR RESPONSIBILITY AND DEBARMENT**

- 53.1 A responsible Contractor is a Contractor who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity and experience to satisfactorily perform the contract. It is the County's policy to conduct business only with responsible contractors.
- 53.2 The Contractor is notified that, in accordance with Chapter 2.202 of the County Code, if the County acquires information concerning the Contractor's performance on this or other contracts which indicates that the Contractor is not responsible, the County may, in addition to other remedies provided in the contract, debar the Contractor from bidding on County contracts for a specified period of time not to exceed three years, and terminate any or all existing contracts the Contractor may have with the County.
- 53.3 The County may debar a contractor if the Board of Supervisors finds, in its discretion, that the Contractor has done any of the following: (1) violated any term of a contract with the County, (2) committed any act or omission which negatively reflects on the Contractor's quality, fitness or capacity to perform a contract with the County or any other public entity, or engaged in a pattern or practice which negatively reflects on same, (3) committed an act or offense which indicates a lack of business integrity or business honesty, or (4) made or submitted a false claim against the County or any other public entity.
- 53.4 If there is evidence that the Contractor may be subject to debarment, the Department will notify the Contractor in writing of the evidence which is the basis for the proposed debarment and advise the Contractor of the date for a debarment hearing before the Contractor Hearing Board.
- 53.5 The Contractor Hearing Board will conduct a hearing where evidence on the proposed debarment is presented. The Contractor and/or the Contractor's representative shall be given an opportunity to submit evidence at that hearing. After the hearing, the Contractor Hearing Board shall prepare a proposed decision, which shall contain a recommendation regarding whether the Contractor should be debarred, and, if so, the appropriate length of time of the debarment. If the Contractor fails to avail itself of the opportunity to submit evidence to the Contractor Hearing Board, the Contractor may be deemed to have waived all rights of appeal.
- 53.6 A record of the hearing, the proposed decision and recommendations of the Contractor Hearing Board will be provided to the Board of Supervisors. The Board of Supervisors shall have the right to modify, deny or adopt the proposed decision and recommendation of the Contractor Hearing Board.

These terms shall also apply to subcontractors of County Contractors.

IN WITNESS THEREOF, the Board of Supervisors of the County of Los Angeles has caused this Agreement to be subscribed by its Chairman and the seal of such Board to be hereto affixed, and attested to by the Executive Officer-Clerk thereof, and the Contractor has caused this Agreement to be subscribed to on its behalf by its duly authorized officer, the day, month and the year first above written.

COUNTY OF LOS ANGELES

By\_\_\_\_\_

ATTEST:

VIOLET VARONA-LUKENS, Executive  
Officer-Clerk of the Board of Supervisors  
of the County of Los Angeles

By\_\_\_\_\_ Deputy

Near North Insurance Brokerage, Inc.  
Contractor

By \_\_\_\_\_

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

APPROVED AS TO FORM:

Lloyd W. Pellman  
County Counsel

By\_\_\_\_\_ Deputy